

ARMAND ORTEGA,	:	Order Docketing Appeal and Vacating
Appellant	:	and Remanding Decision
	:	
v.	:	
	:	Docket No. IBIA 95-145-A
NAVAJO AREA DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	May 3, 1996

Appellant Armand Ortega sought review of a June 19, 1995, decision issued by the Navajo Area Director, Bureau of Indian Affairs (Area Director), assessing rentals allegedly accruing for 38 billboards placed on Navajo Allotment No. 010062. This appeal has been stayed since its filing so that the parties could discuss settlement.

On March 18, 1996, the Board received a stipulated motion to dismiss the appeal from appellant and the Area Director. Although the Board encourages the settlement of disputes brought before it, it had several concerns about the motion it received, including, but not limited to, the statement that the parties had reached a "settlement in principle," which had not yet been finalized. By order dated March 19, 1996, the Board declined to dismiss the appeal, but gave the parties an opportunity to either address the concerns raised in its order or show why it should dismiss the appeal despite its concerns.

On April 11, 1996, the Board received a motion from appellant asking for reconsideration of the March 19, 1996, order. The Board gave the Area Director an opportunity to state whether or not he concurred in the motion for reconsideration. On May 2, 1996, the Board received a filing from the Area Director stating that he concurred in the request for reconsideration and for dismissal.

Under the stipulated motion to dismiss, the Board would vacate the Area Director's June 19, 1996, decision. The Area Director's concurrence in the request for reconsideration states at pages 1-2: "While the Area Director does not lightly consider vacating his decision in this matter, he states that it is prudent * * * to agree to vacating the decision. The Area Director will reissue his decision as to a finding of trespass without the assessment of the penalties under 43 C.F.R. § 2920.1-2(b)(1)."

Pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, and the request of the parties, this appeal from the Navajo Area Director's June 19, 1995, decision is docketed; the June 19, 1995, decision is vacated; and this matter is remanded to the Area Director for further consideration.

Kathryn A. Lynn
Chief Administrative Judge

Anita Vogt
Administrative Judge